

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GLORIA HAYES, on behalf of herself  
and all others similarly situated,  
6200 Homer Street  
Philadelphia, PA 19144,

Plaintiff,

vs.

ALLIED INTERSTATE, INC  
335 Madison Avenue  
New York, NY 10017,

Defendant.

CIVIL ACTION NO.

CLASS ACTION

**COMPLAINT**

**I. INTRODUCTION**

1. This is a consumer class action for damages brought pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 (“FDCPA”). The FDCPA prohibits debt collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

2. Defendant debt collector has sent out collection notices to Plaintiff and the putative class that misrepresent that IRS 1099C forms “are required” to be filed, when in many circumstances none is required to be filed.

3. Defendant has violated the FDCPA by using false and deceptive representations in the collection of consumer debt.

**II. JURISDICTION**

4. Jurisdiction arises under the FDCPA, 15 U.S.C. §1692k, and 28 U.S.C. §§1331 and 1337.

5. *In personam* jurisdiction exists and venue is proper, as Defendant does business in this district and has caused harm in this district.

### **III. PARTIES**

6. Plaintiff Gloria Hayes is a consumer who resides in Philadelphia, Pennsylvania at the address captioned above.

7. Defendant Allied Interstate, Inc. (“Allied”) is a foreign corporation with an office for the regular transaction of business as captioned.

8. Allied regularly uses the mail and telephone to attempt to collect consumer debts alleged to be due another.

9. Allied regularly engages in business in the Eastern District of Pennsylvania.

10. Allied is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

### **IV. STATEMENT OF CLAIM**

11. On April 16, 2012, Defendant Allied sent Plaintiff a communication in connection with a consumer debt allegedly due LVNV Funding LLC. (*See* correspondence from Allied attached hereto as Exhibit “A”, redacted per Fed. R. Civ. Pro. 5.2).

12. In the April 16, 2012 letter, Defendant states:

Our client is required to file a form 1099C with the Internal Revenue Service for any debt forgiveness of \$600 or more. Please consult your tax advisor concerning any tax questions.

(*See* Exhibit “A”).

13. The statement that “our client is required to file a form 1099C with the Internal Revenue Service for any debt forgiveness of \$600 or more” is false and misleading.

14. Section 6050P of the Internal Revenue Code requires that an “applicable entity” report any cancellation or discharge of indebtedness in excess of \$600.00 if, and only if, there has occurred an “identifiable event” described in paragraph (b)(2) of that section.

15. There are also seven exceptions to the reporting requirement set forth in Section 6050P.

16. The gratuitous reference in a collection letter that a creditor is required to provide information on the consumer to the IRS is a collection ploy which suggests to the least sophisticated consumer that he or she could get in trouble with the IRS for refusal to pay the debt, or for obtaining any debt “forgiveness of \$600 or more.”

**V. CLASS ALLEGATIONS**

17. Plaintiff brings this action on her own behalf and on behalf of a class designated pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

18. Plaintiff proposes to define the class (the “Class”) as follows:

- a. All persons with addresses in Philadelphia County, Pennsylvania;
- b. who were sent one or more collection letter(s) from Defendant Allied Interstate, Inc.;
- c. attempting to collect a debt where the listed creditor is LVNV Funding LLC;
- d. stating that “our client is required to file a form 1099C with the Internal Revenue Service for any debt forgiveness of \$600 or more”, or substantially identical statement;
- e. where the underlying debt was incurred primarily for personal, family or household use;

f. where the letter(s) bears a send date from January 25, 2012 through January 25, 2013.

19. The Class is believed to be so numerous that joinder of all members is impractical. This Complaint concerns mass-produced form collection letters.

20. There are questions of law or fact common to the Class. These include:

a. Whether Defendant's letter violates the Fair Debt Collection Practices Act by making false, deceptive or misleading representations in connection with the collection of a debt in violation of §1692e;

b. Whether Defendant engaged in false representations and deceptive means to collect a consumer debt alleged due, in violation of 15 U.S.C. §1692e(10);

c. Whether the form collection notice uniformly misstates the requirements of the IRS regulations.

21. Hayes' claims are typical of the claims of the Class. All are based on the same factual and legal theories.

22. Hayes will fairly and adequately protect the interests of the Class. Plaintiff has no interests antagonistic to those of the class and Plaintiff's counsel is competent and experienced in consumer credit cases and class actions.

23. The questions of law or fact common to the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The Class members are consumer debtors, who may be unable to locate or afford to hire lawyers. Most are probably unaware that their rights, and the FDCPA, have been violated.

24. The Class may be certified under Fed.R.Civ.P. 23(b)(3), as such represents a superior method for the fair and efficient adjudication of this controversy in that:

a. Congress specifically contemplated FDCPA class actions as a principal means of enforcing the statute by private attorneys general. 15 U.S.C. §1692k.

b. The essence of Defendant's collection efforts is the deception of consumers.

c. The interest of Class members in individually controlling the prosecution of separate claims against debt collectors is small because the maximum statutory damages available in an individual action under the Act is \$1,000.00.

d. This Philadelphia, Pennsylvania class is likely to be easily manageable.

**COUNT I – FAIR DEBT COLLECTION PRACTICES ACT**

25. Plaintiff repeats the allegations set forth above as if the same were set forth at length herein.

26. Defendant violated the FDCPA by sending a collection notice(s) to Plaintiff and the members of the class which:

a. Makes false, deceptive, or misleading representations or statements in connection with the collection of consumer debt, 15 U.S.C. § 1692e; and

b. Engages in false representation and deceptive means to collect a consumer debt, 15 U.S.C. §1692e(10).

**WHEREFORE**, Plaintiff Gloria Hayes prays that this Court certify the Class against Defendant Allied Interstate, Inc., and enter judgment for Plaintiff and the Class members:

a. Awarding damages to Plaintiff and to the Class as provided for in 15 U.S.C. §1692k(a);

b. Awarding Plaintiff and the Class their costs and reasonable attorney's fees; and

c. Granting such other relief as may be deemed just and proper.

**VI. DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury as to all issues so triable.

DATE: Jan. 25, 2013

Respectfully submitted:



CARY L. FLITTER  
THEODORE E. LORENZ  
ANDREW M. MILZ  
Attorneys for Plaintiff and the Class

**FLITTER LORENZ, P.C.**  
450 N. Narberth Avenue, Suite 101  
Narberth, PA 19072  
(610) 822-0782

# **EXHIBIT "A"**

**Allied Interstate**

3000 Corporate Exchange Dr 5th Floor Columbus, OH 43231

Toll Free: (866) 310-3882

Mon-Fri 8AM-9PM Sat 8AM-12PM

Date: April 16, 2012

Gloria Hayes  
6200 Homer St  
Philadelphia, PA 19144-1621

Allied Interstate Account No: [REDACTED]

Current Creditor: LVNV Funding LLC

Original Creditor: CAPITAL ONE

Current Creditor Account #: [REDACTED]

Amount Due: \$995.13

Dear Gloria Hayes:

LVNV Funding LLC has given us authority to settle your account for less than the total amount due. We have been authorized to accept one single payment in the amount of 248.78 as settlement on the Amount Due listed above.

To take advantage of the settlement offer outlined above we must receive your payment at the post office box referenced below no later than the close of business on 05-06-2012. After that time, we reserve the right to modify the settlement offer, or revoke the offer in its entirety. This is a limited opportunity and is contingent upon the clearance of your good funds.

Please contact our office at the telephone number listed below should you wish to initiate a payment via the telephone. Please have this letter available when you call.

We are a debt collector attempting to collect a debt and any information obtained will be used for that purpose. If your financial institution rejects or returns your payment for any reason, a service fee, the maximum permitted by applicable law, may be added to your Amount Due.

We process checks electronically, and your checking account will be debited on the day we receive your payment. Your check will not be returned.

Our client is required to file a form 1099C with the Internal Revenue Service for any debt forgiveness of \$600 or more. Please consult your tax advisor concerning any tax questions.

Please note that a negative credit bureau report reflecting on your credit record may be submitted to a credit reporting agency by LVNV Funding LLC or its affiliate if you fail to fulfill the terms of your credit obligation.

Sincerely,

(866) 310-3882

Allied Interstate LLC

**Notice: SEE REVERSE SIDE FOR OTHER IMPORTANT INFORMATION**

Undeliverable Mail Only:

(Detach and return with payment)

P.O. Box 1954  
Southgate, MI 48195-0954

4107B

Allied Interstate Account No.: [REDACTED]

Current Creditor: LVNV Funding LLC

Current Creditor Account No.: [REDACTED]

Amount Due: \$995.13

Payment Enclosed: \$ \_\_\_\_\_

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Gloria Hayes  
6200 Homer St  
Philadelphia, PA 19144-1621Allied Interstate LLC  
P.O. Box 361774  
Columbus, OH 43236



**California:**

The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practice Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).

**Colorado:**

A consumer has the right to request in writing that a debt collector or collection agency cease further communication with the consumer. A written request to cease communication will not prohibit the debt collector or collection agency from taking any other action authorized by law to collect the debt. FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE [WWW.COLORADOATTORNEYGENERAL.GOV/CA](http://WWW.COLORADOATTORNEYGENERAL.GOV/CA).

Our local address: 13111 E. Briarwood Ave. #340, Centennial, CO 80112 and phone# 303-309-3839

**Maine:**

Maine residents may contact our office by telephone at the number and office hours stated on the front of this letter.

**Massachusetts:**

Massachusetts residents may contact our office by telephone at the number, office hours and address stated on the front of this letter or to 5230 Washington St. West Roxbury, MA 02132.

**NOTICE OF IMPORTANT RIGHTS**

YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE COLLECTION AGENCY.

**Minnesota:** This collection agency is licensed by the Minnesota Department of Commerce.

**New York City:**

New York City Department of Consumer Affairs License Nos.: 1140302, 1173635, 1140115, 1140113, 1140304, 1140551, 1140554, 1140555, 0933734, 1168335, 1140606, 1140607, 1140608, 1248312, 1248315.

**North Carolina:**

North Carolina Department of Insurance Permit Nos.: 3709, 3683, 3738, 917, 3715, 3740, 1061, 4379, 3736, 4433, 4461, 4432, 3741.

**Tennessee:**

This collection agency is licensed by the Collection Service Board, State Department of Commerce and Insurance.

**Wisconsin:**

This collection agency is licensed by the Division of Banking, P.O. Box 7876 Madison, Wisconsin 53707.

Federal and state laws prohibit certain methods of debt collection, and require that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact. Sending such a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to us at Allied Interstate LLC, P.O. Box 361774, Columbus, OH 43236, email us at [advocacygroup@allied-interstate.com](mailto:advocacygroup@allied-interstate.com), or call us toll free at 800-811-4214 between 9:00 AM Central Time and 5:00 PM Central Time Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). If you have a complaint about the way we are collecting your debt, please contact the FTC online at [www.ftc.gov](http://www.ftc.gov); by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., NW, Washington, DC 20580.